



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% **Judgment reserved on : 20 December 2024**
Judgment pronounced on : 03 March 2025
+ W.P. (C) 5822/2021 and CM APPL. 18254/2021, CM APPL. 30553/2021

DHOBI GHAT JHUGGI ADHIKAR MANCH Petitioner
Through: Mr. Haider Ali, Adv.

versus

DELHI DEVELOPMENT AUTHORITY & ORS.

..... Respondents
Through: Ms. Shobhana Takiar, SC with
Ms. Kritika Gupta & Mr.
Kuljeet Singh, Advos. For
DDA.
Mr. Anuj Chaturvedi, Ms.
Harshits Maheshwari & Mr.
Pawan Karan Deo, Advos. For
DUSIB.

CORAM:
HON'BLE MR. JUSTICE DHARMESH SHARMA

J U D G E M E N T

1. The petitioner, i.e., Dhobi Ghat Jhuggi Adhikar Manch (*hereinafter referred as 'petitioner union'*) is invoking the extraordinary jurisdiction of this Court by instituting the present writ petitioner under Article 226 of the Constitution of India, 1950, by seeking the following reliefs against the respondents herein: -

“a. Direct the respondent no. 1, DDA to suspend further the demolition (if any) and maintain status quo at the JJ Slum, Dhobi Ghat, Batla House, Jamia Nagar, Okhla, South Delhi, Delhi-110025 until all residents are surveyed and rehabilitated as per the DUSIB Policy;



- b. Direct respondent no.2, DUSIB to conduct a survey of the affected residents and rehabilitate them in accordance with the Delhi JJ slum Rehabilitation and Relocation Policy, 2015;
- c. Direct the respondents to put on record the survey of the residents in accordance with the DUSIB policy of 2015;
- d. Direct respondents to immediately provide temporary shelter to the Petitioner with proper sanitation, clean water and hygienic conditions;
- e. Direct the respondents to pay 1,00,000/- compensation to the each of the affected family for the loss and suffering due to demolition and inaction on the part of the respondents;
- f. Any other order deemed fit and proper in the circumstances of the present case.”

BRIEF FACTS

2. Shorn of unnecessary details, the petitioner union comprises residents of the Dhobi Ghat Jhuggi clusters. It is claimed by the petitioner union that the Jhuggi Jhopri¹ Basti at Dhobi Ghat, Batla House Jamia Nagar, Okhla, South Delhi, Delhi – 110025² has been in existence since 1990s and consists of 800 households. The residents, who are primarily daily wage labourers and domestic workers, claim to have documentary proof of residence predating 01.01.2015, as mandated under the DUSIB³ Policy, 2015⁴

3. The grievance of the petitioner union is that on 23.09.2020, two police officials visited the Basti and directed the residents to vacate their respective dwellings on the ground that demolition was scheduled for the following day. The petitioner union alleges that no prior notice of eviction was served upon the residents. On 24.09.2020, at approximately 10:00 AM, two officials of the DDA, accompanied

¹ JJ

² Subject site

³ Delhi Urban Shelter Improvement Board Govt. of NCT of Delhi



by 30-40 police personnel, two JCB bulldozers, and 3-4 MCD⁵ trucks, arrived at the site and commenced the demolition of the dwellings. It is averred that during the process, household belongings, including furniture, utensils, jewellery, money, and documents, were loaded into MCD trucks without affording the residents an opportunity to retrieve them. The petitioner union further alleges that individuals who protested against the demolition were subjected to physical assault and unlawful detention at the police station. No formal notice of eviction was issued prior to the said demolition.

4. The petitioner union contends that the Basti is listed at Serial No. 10 in the Additional JJ Clusters List published by DUSIB for rehabilitation, and thus, the respondents are obligated to adhere to the DUSIB Relocation Policy, 2015. As per the policy, any resident with proof of residence prior to 01.01.2015 is eligible for rehabilitation. It is further stated that in 2017, a fire of unknown origin destroyed several documents of the residents, which might have otherwise substantiated their claims of long-standing residence.

5. It is stated that a family residing in the Basti, along with certain other residents, had filed W.P. (C) 7032/2020 before this Court, seeking a stay on the eviction of residents at Dhobi Ghat, Batla House, Jamia Nagar, Okhla, South Delhi, and a direction to DUSIB to conduct a survey of the affected residents and rehabilitate them in accordance with the 2015 Policy. The petitioners therein also sought a direction to Police to provide protection against any demolition in the

⁴ No. D-232/DD(Reh.)HQ/2016 dated 14.06.2016 [Delhi Slum & JJ Rehabilitation and Relocation Policy]



absence of an express court order and to return the belongings seized during the demolition drive conducted on 24.09.2020.

6. It is stated that *vide* order dated 25.09.2020 in W.P.(C) 7031/2020, this Court directed the DDA to conduct an enumeration of the persons whose dwellings had been demolished and to identify an alternate site for their rehabilitation within ten days. It was further directed that in the event DDA was unable to provide an alternate site, it would permit the affected residents to set up temporary camps at the subject site. Additionally, a stay of five days was granted to the petitioners to enable them to take appropriate steps as per law. Subsequently, the petitioners in W.P.(C) 7032/2020 approached the Division Bench of this Court in LPA⁶ 276/2020, seeking a stay on the demolition. However, the Division Bench declined to grant such relief, noting the submission of the DDA that the learned National Green Tribunal, in OA No. 6 of 2012 titled **Manoj Misra v. Union of India**, had directed the removal of encroachments near the Yamuna floodplains and had imposed a penalty of Rs. 5,00,000/- per month for non-compliance. Further, the petitioners therein were given ten days' time to approach the learned National Green Tribunal.

7. In LPA 276/2020, this Court directed the petitioners therein to seek clarification or appropriate relief from the learned National Green Tribunal concerning its order dated 13.01.2015 in **Manoj Misra v. Union of India**, bearing O.A. No. 06/2012. The relevant portion of the said order is reproduced below:

⁵ Municipal Corporation of Delhi

⁶ Letters Patent Appeal



“50. It cannot be disputed and in fact, has not been disputed that the present status of Yamuna is only of a sewer, due to lack of fresh water flow, discharge of untreated or partly treated domestic and industrial waste and due to dumping of debris on its banks and in it. Its flood plains are highly truncated and degraded, resulting in depletion in most of its natural bio-diversity. It has been submitted before the Tribunal that around 37000 cu. m. on the Eastern bank and around 53000 cu. m. on the Western bank is the quantum of debris which was lying on the banks River Yamuna. Of course, majority of this has already been removed under the directions of the Tribunal and steps have been taken to identify such sites. Still little part of debris, consisting of construction and other debris remains. Steps need to be taken not only to remove the remaining part of debris and clear the river banks absolutely, but also to prevent and ensure that there is no fresh dumping of debris in the entire stretch passing through the National Capital Region (for short, ‘NCR’). Huge dumps and encroachments of the river banks were noticed by the Expert Committee constituted by the MOEF, during their visits to these sites. Private persons, authorities, and even bodies like DMRC had contributed to encroachments and dumping, which was rampant. Thus, the committee recommended that:

- 1. All solid waste dumps, including those used for roads and bunds, within the active floodplain should be removed forthwith.*
- 2. All solid waste recycling units, farm houses, cattle farms and nurseries must be relocated at the earliest.*
- 3. Construction of new bunds, roads and guide bunds, widening of existing bunds, spurs and guide bunds within the active floodplains should be stopped and banned.*
- 4. No filling of the floodplain/riverbeds be allowed in the name of development and renovation of ghats. The floodplain under built up areas at Sur Ghat and Quedsia Ghat should be recovered. All recreational facilities for people visiting ghats should be created close to the embankments/roads where a channel taken out from the water course of the river can be brought for the purpose.*
- 5. All settlements encroaching upon the floodplain (with the exceptions noted in the detailed report) should be relocated at the earliest.*
- 6. Construction of new barrages and roads, railway and metro bridges, and embankments and bunds should not be permitted. In exceptional cases, a critical assessment of their potential impacts on flood aggravation and environmental clearances should be made mandatory.*



7. *There is a shortage of landfill sites in Delhi Immediate action is required to identify additional landfill sites catering to the next 25 years of requirement. Action is also required to identify more sites for recycling of building material waste.*

xxxx

57. *As already noticed above, vide order dated 13th September, 2013 passed by the Tribunal, the Expert Committee was required to examine and critically analyse the Yamuna River Front Development Plan of the DDA as well. This was done by the Committee. This Plan of DDA is an Integrated project of recreational areas along with, bio-diversity parks, in four of the subzones of the 'O Zone'. The area proposed for the implementation of Yamuna River Front Development {YRFD} scheme by the DDA, is the active Flood Plain which is frequently flooded by medium floods. According to the Expert Committee, the proposed activities such as construction of various recreational and public facilities, by effecting topographic changes, will reduce the flood carrying capacity and aggravate flooding, besides contributing to pollution. Development of the flood plains has to be strictly done, while keeping the biodiversity intact and ensuring that no major and impermissible construction activity is permitted on the flood plain. Biodiversity parks could be made at suitable locations, for example, sub-zone IV and sub-zone VI, as recommended by the Expert Committee in its report. The Committee has specifically noticed that the flood carrying capacity of the river has been considerably reduced due to encroachments and waste dumps resulting in flooding of its banks every year and this was also reported by NEERI in its report of 2005. The Committee has suggested that new wetland habitats should be created for biodiversity conservation, whenever feasible, and inter-connectedness between wetlands for water movement and exchange should be promoted. The Expert Committee, for the reasons stated in its Report, suggested that the YRFD plan of DDA is untenable and should be stopped. It has already been placed on record that the DDA itself admits in their proposed re-delineation of 'O Zone', in terms of the public notice issued by it on 28th September, 2013, that the 'River Front' refers to an area that lies outside the embankments of a river, but the area of the proposed YRFD plan is within the active floodplain. Thus, it is recommended that this YRFD scheme should be replaced by another plan for restoration of the river and its floodplain, as suggested by the Expert Committee and accepted by the High Powered Committee. We direct that all the recommendations of the Expert Committee, including the above, should be implemented without any further delay.*



xxxx

94. (V) (d) We direct all the concerned authorities including the DDA, Municipal Corporations, and the NCT of Delhi, to take immediate and effective steps for repossession of the Flood Plain area under the unauthorized and illegal occupation of any person and/or any other body."

8. Pursuant to the directions of this Court in LPA No. 276/2020, the petitioners therein approached the learned National Green Tribunal by filing M.A. No. 07/2021 in O.A. No. 285/2020, seeking appropriate directions and relief. By way of the order dated 02.02.2021, the learned National Green Tribunal clarified that its jurisdiction under Sections 14 and 15 of the National Green Tribunal Act, 2010, is limited to providing remedies to victims of pollution and does not extend to entertaining pleas against demolition. It was further clarified that matters concerning demolition and rehabilitation fall within the jurisdiction of the appropriate courts and not the learned National Green Tribunal.

9. The petitioner union asserts that approximately 800 jhuggis have already been demolished by the DDA, and no arrangements have been made for temporary shelter for the affected families. It is contended that while the demolition was carried out in the name of environmental concerns, the DDA has, to date, failed to provide any temporary shelter to the petitioners. Furthermore, it is alleged that the entire area has been dug up, leading to the accumulation of stagnant and dirty water, thereby adversely impacting both the environment and the residents. As a result, the living conditions at the Basti situated in Dhobi Ghat have deteriorated significantly, rendering the area unhygienic and uninhabitable.



10. The petitioner union asserts that the right to housing is an essential facet of the fundamental right to life under Article 21 of the Constitution of India, 1950. Constitutional courts have interpreted the *right to shelter* as the *right to adequate shelter*, ensuring privacy and security beyond mere existence. It is submitted that the State is duty-bound to provide proper housing, as the right to adequate shelter is interlinked with other fundamental rights, and its violation adversely affects their enjoyment.

11. The petitioner union puts forth that the DUSIB as the designated Nodal Agency is legally obligated to undertake the rehabilitation of the affected residents. Furthermore, under Section 3 (1) (a) of The National Capital Territory of Delhi Laws (Special Provisions) Second Act, 2011, JJ clusters in Delhi are required to be rehabilitated. The relevant provisions are as follows:

“3. Enforcement to be kept in abeyance.—

(1) Notwithstanding anything contained in any relevant law or any rules, regulations or byelaws made thereunder, the Central Government shall before the expiry of this Act, take all possible measures to finalise norms, policy guidelines, feasible strategies and make orderly arrangements to deal with the problem of encroachment or unauthorized development in the form of encroachment by slum dwellers and Jhuggi-Jhompri clusters, 1 *** unauthorised colonies, village abadi area (including urban villages), and their extensions, existing farm houses involving construction beyond permissible building limits and schools, dispensaries, religious institutions, cultural institutions, storages, warehouses and godowns used for agricultural inputs or produce (including dairy and poultry) in rural areas built on agricultural land, as mentioned below:—

(a) orderly arrangements for relocation and rehabilitation of slum dwellers and Jhuggi- Jhompri clusters in Delhi in accordance with the provisions of the Delhi Urban Shelter Improvement Board Act, 2010 (Delhi Act 7 of 2010) and



the Master Plan for Delhi, 2021 to ensure its development in a sustainable planned and humane manner;"

STAND OF RESPONDENT NO.2/DUSIB

12. In its counter affidavit dated 22.07.2021, DUSIB contends that the writ petition arises from a Public Interest Litigation and should be dismissed for non-compliance with the prescribed procedure under the Delhi High Court Rules and the Delhi High Court (Public Interest Litigation) Rules, 2010. It is further argued that the petitioner union's status is unspecified, with no indication of it being a society, trust, firm, or corporation. As the petitioner union is not a natural person, the petition is claimed to be non-maintainable.

13. DUSIB submits that, as per the petitioner union's own pleadings, the alleged demolition was carried out by the DDA, which is also the land-owning agency in the present case. Therefore, DUSIB asserts that it has no role in either the demolition or the rehabilitation of the petitioner union's members. Acknowledging that it is a statutory board constituted under the DUSIB Act, 2010, and has been designated as the Nodal Agency for the relocation of *Jhuggi Jhopri Bastis* situated on land owned by the Delhi Government or its agencies. However, referring to Section 10(3) of the DUSIB Act, it is submitted that if a *Jhuggi Jhopri Basti* is on land belonging to the Central Government or its agencies, removal and resettlement require prior consent from the concerned authority. It is thus stated that DUSIB has no binding obligation to undertake such resettlement on Central Government land.

14. It is brought to the fore that there is approximately 675 + 82 *JJ Bastis* located on land belonging to various government departments



or agencies, including the subject *JJ Cluster*, which is part of the additional list of 82 identified clusters in Delhi. Moreover, as per the prevailing policy, DUSIB undertakes rehabilitation or relocation only upon receiving a request from the concerned land-owning agency, i.e., DDA herein, a procedure that is within the petitioner union's knowledge.

15. Lastly, it is submitted that the DDA has its own relocation policy⁷ for JJ Clusters and has devised a phased rehabilitation plan for those situated on its land. Regarding the petitioner union's request for temporary shelter with essential facilities, it is contended that this responsibility falls under the Delhi Disaster Management Authority of the respondent No. 3, which is tasked with mitigating the socio-economic impact of disasters. Reliance is placed on this Court's order dated 05.03.2018 in W.P.(C) 1997/2018⁸, where the land-owning agency and respondent No. 3 were directed to address the shelter, food, and educational needs of the displaced population following a demolition.

STAND OF THE RESPONDENT NO. 1/DDA

16. The DDA submits that the petitioner union lacks the *locus standi* to maintain the present writ petition, as its members are alleged to be unauthorized encroachers on the subject site. It is contended that the petitioner union has failed to furnish any details or documentary evidence to substantiate its claim of inhabiting the subject site since the 1990s. On the contrary, the DDA asserts that the petitioner union's

⁷ Policy guidelines for relocation of the Jhuggi clusters in Delhi; dated 03.03.2004 [No. F 2(1)2001/LMCPLA/86]



members encroached upon the subject site only a few months prior to the demolition and, therefore, have no legal right to unlawfully occupy government land, which forms part of the Yamuna floodplains.

17. The DDA states that the Basti on the subject site was acquired through Award No. 51/81-82 dated 09.02.1982 and Award No. 95/83-84 dated 24.02.1984. Under Award No. 51/81-82, 34 bighas 8 biswas of land at Khasra No. 279, Village Okhla, were acquired, with physical possession of 31 bighas 11 biswas handed over to the DDA by the Land Acquisition Collector⁹ on 02.03.1982. Similarly, under Award No. 95/83-84, land at Khasra Nos. 477/306, 478/306, 482/306, and 302 of Village Okhla was acquired. Physical possession of 9 bighas 11 biswas at Khasra No. 302, 2 bighas 17 biswas at Khasra No. 477/306, 2 bighas 18 biswas at Khasra No. 478/306, and 14 biswas at Khasra No. 482/306 was transferred to the DDA by the LAC on 14.03.1984.

18. It is further contended that no right to sue accrues in favour of the petitioner union, as its members are unauthorized encroachers on land that has been duly acquired by the DDA, with physical possession also vested in the DDA. The DDA submits that the demolition of the Basti situated on the subject site was carried out in compliance with the orders of the learned National Green Tribunal, as the site forms part of the River Yamuna floodplains. Reliance is placed on the order dated 07.10.2020 in **Shakil Ahmed v. DDA**¹⁰, wherein the Division Bench of this Court held that any relief sought

⁸ Pooja Singh & Anr. v. Union of India & Ors.

⁹ LAC



by persons affected by such demolitions, where the land forms part of the River Yamuna floodplains, ought to be pursued before the learned National Green Tribunal alone.

19. It is averred that, under the DUSIB and the JJ Rehabilitation and Relocation Policy, 2015, not every JJ dweller or JJ Basti/cluster is automatically entitled to alternate housing. Reliance is placed on Clause 2(a)(i) of Part A of the 2015 Policy, which explicitly states that only JJ Bastis established before 01.01.2006 shall not be removed or demolished without providing alternate housing. Further, Clause 2(a)(ii) specifies that no *jhuggi* that came up after 01.01.2015 shall be eligible for alternate housing. Additionally, Clause I of Part B of the 2015 Policy outlines 11 eligibility criteria for the allotment of alternate dwelling units for the rehabilitation and relocation of JJ dwellers.

20. In summary, the stand of the DDA is that no habitation, occupation, or construction is permitted on the Yamuna floodplains, as consistently upheld by the Courts. In **Anand Arya & Anr. v. UOI & Ors.**¹¹, this Court, based on a committee's recommendations, halted the 'Times Global Village Festival' to safeguard the ecological integrity of the floodplains. Similarly, in **Manoj Mishra v UOI & Ors**¹², the learned National Green Tribunal, *vide* judgment dated 07.12.2017, held the Art of Living organization responsible for environmental degradation and directed the restoration of the floodplains, including the establishment of a Biodiversity Park as part

¹⁰ LPA 276/2020

¹¹ W.P.(C) No. 2344/2007



of DDA's Phase II plan. It was reiterated that the River Yamuna floodplains must not be used for occupation, construction, or habitation, and it is the responsibility of the DDA to preserve their natural ecology.

21. It is further submitted that the DDA, in compliance with the aforesaid judgments, has undertaken extensive restoration of the River Yamuna floodplains and about 100 hectares of floodplain land, surrendered by the Art of Living and re-possessed by the DDA, has been developed into a green area named *Kalindi Aviral*, with various species of trees, shrubs, and riverine grasses planted. Additionally, the DDA has developed 90 hectares at *Asita East* and 93 hectares at *Asita West*. It is averred that similar efforts to transform the remaining floodplain areas into green zones are ongoing. Further, by judgment dated 30.09.2019 in **Jagdev v. Lt. Governor**¹³, the learned National Green Tribunal, while addressing encroachments on the River Yamuna riverbed, reiterated that the floodplains cannot be occupied, as such encroachments harm the river's ecology.

22. The DDA emphatically points out that the *jhuggis* on the subject site are situated alarmingly close to the River Yamuna. This encroachment, so near to the river, poses a severe threat to the environment and stands in blatant defiance of the unequivocal orders passed by the learned National Green Tribunal, undermining the very integrity of the river's floodplains.

¹² OA No. 65/2016, OA No. 76/2016 and OA No. 81/2016

¹³ O.A. No. 622/2019



ARGUMENTS ADVANCED AT THE BAR

23. Learned counsel for the petitioner union heavily relied on the Additional JJ Clusters List published by DUSIB, wherein the Basti on the subject site is listed at Serial No. 10, asserting that the respondents are bound by the DUSIB Relocation Policy, 2015, that makes all its residents qualify for rehabilitation under both the 2015 Policy and the Pradhan Mantri Awas Yojana¹⁴. It was pointed out that the petitioner union's Basti is among the 82 additional JJ clusters identified in Delhi, as admitted by DUSIB in its counter affidavit dated 22.07.2021. Furthermore, DUSIB has acknowledged that the DDA never communicated with it regarding demolition or rehabilitation before initiating action.

24. Learned counsel for the petitioner union countered the assertion of the DDA and submitted that the DDA has misled the Court that no dwellers resided there before 2015 and in this regard relied on Google Maps imagery from 2004 to 2022, unmistakably showing the settlement at Dhobi Ghat, Batla House. Maps from 2011 to 2021, including post-demolition images from 2020 and 2021, further confirm the continuous presence of jhuggi residents well before the 2015 cut-off date. It was urged that despite multiple demolitions, the residents were never rehabilitated, forcing them into a cycle of displacement within the same vicinity. Google Earth images from 2004 to 2010 reinforce the long-standing existence of the slum cluster, aligning with the 2015 Policy's eligibility criteria.

¹⁴ PMAY Scheme



25. In order to substantiate their claim that the residents are entitled to be rehabilitated, the petitioner union has submitted authenticated documents, including bank passbooks, school certificates, birth and national population registration slips, ration cards, Aadhaar cards, and voter ID cards, all linked to the jhuggis' address and dated before 2015. Reliance is placed on **Olga Tellis & Ors. v. Bombay Municipal Corporation & Ors.**¹⁵, wherein the Supreme Court upheld the right to shelter and the necessity of fair documentation for slum dwellers, reinforcing the legitimacy of the petitioner union's claims.

26. Learned counsel for the petitioner union pointed out that in 2011-12, the DDA demolished the entire *jhuggi*, rendering its residents homeless and forcing them to live on the streets. Despite conducting a survey at the time, the respondents failed to rehabilitate a single person, compelling the evicted residents to remain on the debris and that over time, they relocated just meters away from the demolished site but then in September 2020, the respondents carried out another demolition without a prior survey, in violation of established standards. It was urged that the demolition, purportedly carried out in the name of environmental preservation, failed to provide temporary shelters, leaving a hazardous site with stagnant water, endangering public health; and that despite this Court's direction for immediate sanitation and shelter arrangements, the respondents provided inadequate and inaccessible facilities, disregarding court orders. Reliance is placed on the 2015 Policy,

¹⁵ 1986 AIR 180



which, in line with judicial precedents such as **Ajay Maken & Ors. vs. UOI & Ors.**¹⁶ and **Sudama Singh v. Government of Delhi**¹⁷, mandates rehabilitation for slum dwellers through proper surveys and documentation.

27. Controverting the aforesaid contentions, Ms. Shobhana Takiar, Standing Counsel for the DDA, has assailed the *locus standi* of the petitioner union. Additionally, she has pointed that the petition is silent on the crucial aspect of the exact area under challenge. It is urged that while the petition names the alleged JJ Basti as *Dhobi Ghat, Batla House, Jamia Nagar, Okhla, South Delhi, Delhi-110025*, it fails to provide any site plan, latitude/longitude coordinates, identified boundaries, or a clear map depicting its precise location. It is pointed out that on the other hand the DDA had submitted records clarifying the site's location before this Court, as duly recorded in the Order dated 09.09.2021.

28. Learned counsel for the DDA has vehemently urged that the petitioner union has deliberately concealed the fact that the alleged Basti is situated squarely on the River Yamuna floodplains and is a significant source of pollution to the river. It was urged that the occupants of the subject site are causing substantial environmental harm. It is further argued by the DDA that the site and hutments where demolition was carried out by the DDA do not form part of the 675 identified JJ Bastis listed by DUSIB.

¹⁶ AIRONLINE 2019 DEL 523

¹⁷ (2010) 168 DLT 218



29. It is vehemently urged that not every JJ dweller or JJ Basti is automatically entitled to alternate housing or in-situ rehabilitation, nor is a survey a matter of right. Referring to Clause 2(a)(i) of the 2015 Policy (Part A) it is urged that only those JJ Bastis established prior to 01.01.2006 shall not be removed without providing alternate housing. Clause 2(a)(ii) further states that no jhuggis established after 01.01.2015 shall be provided alternate housing. Additionally, it is urged that Clause 1 of Part B outlines 11 eligibility criteria for allotment of alternate housing for rehabilitation and the JJ Basti in question, located in Village Okhla, is on land acquired by the DDA, the details of which have been provided in the DDA's counter-affidavit.

30. It is lastly argued on behalf of the DDA that the JJ Basti in question is not part of the list of 675 identified JJ Bastis compiled by DUSIB and thus being an unlisted Basti, no protection is available under DUSIB's 2015 Policy. It is submitted that this Court has consistently clarified through numerous judgments, including decisions by coordinate benches, the Division Bench of this Court, and the Supreme Court, that only identified Bastis are entitled to protection, and that these identified Bastis cannot be removed or demolished without being provided alternate housing. Reliance has been placed on **Tejpal Gautam & Ors. v. Central Public Works Department**¹⁸, **Shakarpur Slum Union v. DDA & Anr.**¹⁹, **Dinesh**

¹⁸ 2018 SCC OnLine Del 10484

¹⁹ 2022 SCC OnLine Del 2236



Singh v. DDA & Ors.²⁰, **Yamuna Khadar Slum Union v. DDA & Ors.**²¹.

ANALYSIS AND DECISION

31. I have given my thoughtful consideration to the submissions advanced by the learned counsels for the parties at the Bar. I have also perused the relevant record of the case.

32. **First things first**, there is merit in the plea advanced by the learned Standing Counsel for the DDA that there is a serious issue with regard to the *locus standi* of the petitioner union. There is no clear averment as to the status of the petitioner union, in the sense that it is not clear as to whether it is a Society, Trust, Firm, or Corporation. No rules and regulation governing the affairs of the petitioner union have been placed on record. There is no clear indication of its office-bearers, so much so that even the identities of the persons who have filed the *vakalatnama* are not disclosed. The petitioner union is not a natural legal person and, therefore, has no right to file the present petition in a representative capacity.

33. Be that as it may, even assuming for the sake of convenience that the petitioner union is espousing the case of some very impoverished persons, who are alleged to have been in occupation of various tract of land in question, the present petition lacks foundational facts, such as the exact extent of the land under challenge and its geographical location. The petition does no rely on any site plan. No details regarding the latitudinal and longitudinal coordinates

²⁰ W.P.(C) 9625/2022 dated 04.08.2022

²¹ 2024 SCC OnLine Del 4634



or boundaries have been placed on record, resulting in a lack of clarity concerning the location of the subject site claimed to be in possession of the petitioner union. In fact, regarding possession itself, there is a contradictory stand, inasmuch as it is admitted that, on multiple occasions, some of the members of the petitioner union have been evicted, yet they return, reoccupy, and continue to live on the subject site.

34. It is interesting to take note that the petition acknowledges that some similarly situated persons from the alleged JJ Cluster had also challenged the demolition action on the part of the DDA in the case of **Shakil Ahmed v. DDA**²², which was dismissed by this Court as well. Therefore, in view of the aforesaid precedent, the present petition must be summarily rejected on this ground alone.

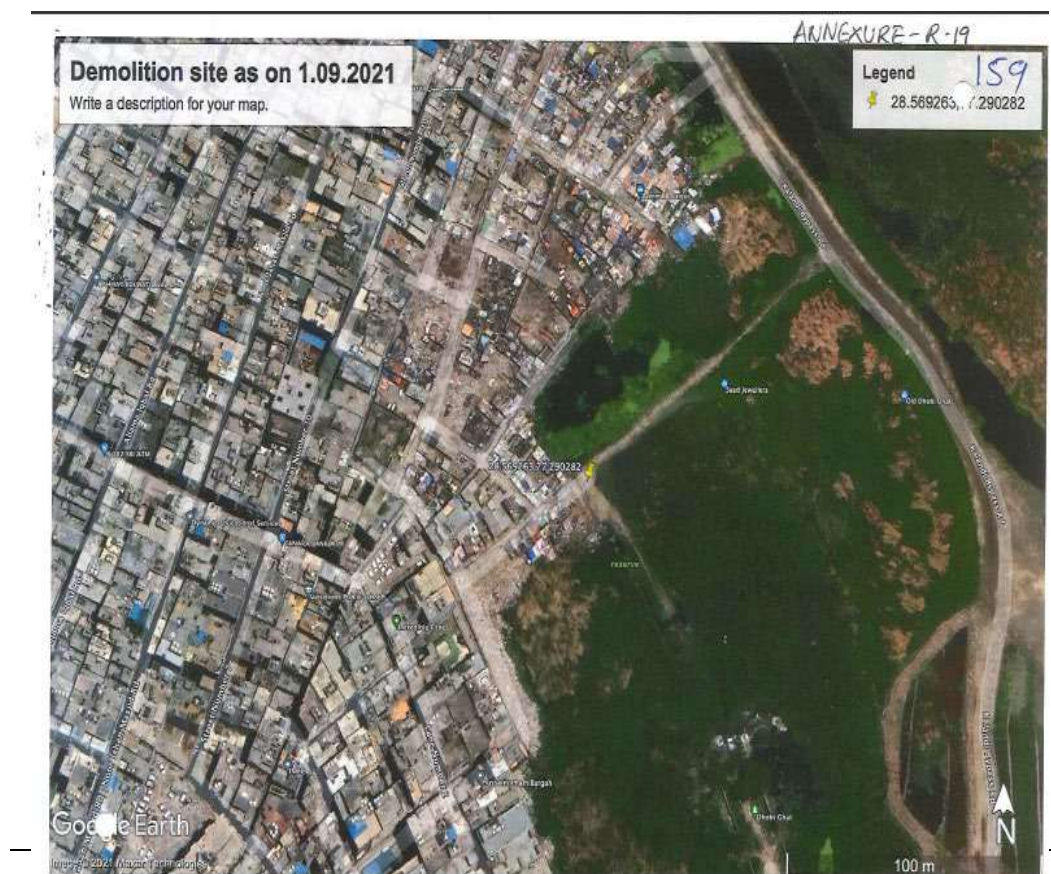
35. Anyhow, upon careful examination of the records, it is abundantly clear that the Basti located at Dhobi Ghat, Batla House, Jamia Nagar, Okhla, South Delhi, Delhi-110025, lies within the floodplain/riverbed of the River Yamuna. The DDA has unequivocally stated that the subject site was acquired through Award No. 51/81-82 dated 09.02.1982 and Award No. 95/83-84 dated 24.02.1984, specifically for developing a Biodiversity Park under Phase II of its plan. Since 1982, the DDA has taken physical possession of the land, further solidifying its legal rights over the property. This acquisition and possession serve as irrefutable evidence of the DDA's lawful control over the site, underscoring that any unauthorized occupation is

²² W.P.(C) 7032/2020 dated 25.09.2020 and LPA 276/2020 dated 07.10.2020



not only unlawful but also detrimental to the integrity of the planned development.

36. The DDA avers that as part of the restoration and rejuvenation of the River Yamuna Floodplains, the entire area has been divided into 10 modules/blocks, with the subject site falling within the designated Biodiversity Park to be developed by the DDA. The DDA further refutes the petitioner union's claim of inhabiting the site since 1990, asserting that satellite images of the subject site, with geo-coordinates of Latitude 28.569263° and Longitude 77.290282°, confirm that the site was a green belt, devoid of any structures, as recent as 2016 and 2019. It would be apposite to reproduce the Google Maps imagery for the sake of convenience: -





37. In summary, there can be no iota of doubt that the petitioner union, being rank trespassers and unlawfully occupying a portion of the subject site, is causing immense harm and pollution to the River Yamuna, as exemplified from the photographs placed on the record. It goes without saying that there is a plethora of case laws on the subject of encroachment, unauthorized occupation, and constructions on the River Yamuna floodplains, as well as the relocation of displaced persons, as adjudicated by this Court. In the case of **Haq Through its Member Abdul Shakeel v. DDA**²³, a Division Bench of this Court dealt with approximately 100 families of farmer community residing in Village Chiraga South, located on the River Yamuna floodplains. In

²³ W.P.(C) 2029/2012 dated 03.04.2013



a challenge against the demolition action that removed the temporary thatched huts of these individuals, the Court observed that petitioners therein, despite farming and residing on the land, were not its owners and had no legal right thereto. It was held that by removing the encroachment, the DDA was merely complying with the directions of the Division Bench in W.P.(C) 211/2022 dated 03.03.2003. Furthermore, the Court observed that, since there was permanent habitation on the land in question, the issue of rehabilitating those occupying the land did not arise.

38. In another bunch of matters decided by the Division Bench of this Court in LPA No. 479/2013²⁴, the Division Bench dealt with a dispute concerning land leased out to various societies, including Jheel Khuranja Cooperative Milk Producers Society Limited and Delhi Peasants Cooperative Multipurpose Society Limited, measuring approximately 7,938 bighas 12 biswas. The government had determined the lease, vesting the land in the DDA. When several petitioners, claiming to be in occupation of the land and making payments to the aforesaid two Societies, challenged their eviction, the Court dismissed the challenge. It held, *inter alia*, that the earlier decision of the Coordinate Bench²⁵, wherein the eviction order against those who were similarly placed had been upheld, was binding in respect of the appeals before this Court with respect to the petitioners.

²⁴ Sunil Kmar v. DDA dated 31.01.2018

²⁵ Smt. Dhan Kaur v. DDA W.P.(C) 3797/1991



39. Similarly, in **Uday Raj v. Govt. of NCT of Delhi** ²⁶, which involved dislocation of petitioners and other residents from a tract of land along the western bank of the River Yamuna behind the Tibetan Colony at Majnu K Tila, the Court found the case concerned re-encroachment. The petitioners, after an initial demolition, had shifted to nearby areas and raised temporary *jhuggis/makeshift sheds/chappars*. The Court held that the petitioners could not take advantage of their own wrongful act and, therefore, were not entitled to any relief. Furthermore, in the absence of any rehabilitation policy, the petitioners had no right to claim resettlement from the government. In another case, **Yamuna Bank Kishan Bachao Morcha v. State of NCT of Delhi**²⁷, a Coordinate Bench of this Court considered a petition filed by a Society comprising of farmers who claimed to be inhabitants on the banks of the River Yamuna for over 100 years growing vegetables and this Court referring to earlier decision of this Court observed as under:

“26. The writ petition shows that the petitioners are growing crops of Radish, Brinjal, Potato, etc. which is clearly prohibited by the order of the National Green Tribunal. The National Green Tribunal by order dated 13.01.2015 has observed as under:-

"51. Unauthorised activities are being carried out on the floodplain and at some places they have even encroached up to the riverbed of Yamuna. Agricultural products raised from these areas have shown to be injurious to human health, primarily for the reasons that the river carries very high pollutants, including heavy-metals and acidic elements. One of the studies brought on record which is even supported by the United Nations, is the first to link river contamination with adverse impacts on human health. According to this study, around 23% of children

²⁶ W.P.(C) 9342/2018 dated 09.10.2018

²⁷ W.P. (Crl.) 2035/2020 dated 01.02.2022



had lead levels in their blood above 10 micro grams - a widely accepted guideline - whose adverse health effects have been noted. The study said high level of lead in blood was eight times more when exposed to the riverbank after Wazirabad in north Delhi, compared to rural areas upstream in Haryana, where river water contamination was found to be less. Heavy metals such as lead are more readily absorbed by children as compared to adults. The resultant disasters would be impairment of motoring skills, onset and development of hypertension and may even result in slow cognitive development. Water and soil samples were lifted every 2 km, starting, from Wazirabad Barrage and covered 22 km of the river in the capital. The presence of heavy metals increased after Wazirabad even though every drop of water that flows in the river .in Delhi has to be cleaned through Sewage Treatment and Effluent Treatment Plants. Presence of heavy metals was negligible in Haryana. Hexavalent chromium, said to be hazardous was found to be highest at Old Yamuna Bridge and Indraprastha Estate Power Plant. This is the area where maximum vegetables are grown on riverbed. At this point there is also heavy industrial discharge into the river.

52. Agricultural activities must be carried on as it is essential for our day to day living, but, agriculture produce that will lead to greater harm to human health must be checked and if necessary should also be, stopped. The principle of 'Inter-generational Equity' would require that today' younger' generation should not be exposed' to serious health hazards and thus, it will not only be desirable but essential that such contaminated produce/vegetables are not offered for consumption to the people at large. The Principle of Comparative Hardship would clearly mandate that where the injury is n much; greater in proportion to the benefit that would accrue as a result of such activity, the activity must be stopped in the larger interest of the public and of public health."

27. In the absence of any title, the prayer for mandamus commanding the respondents No.2 to take action against the respondents No.3 to 9 is not maintainable. If the petitioner feels that an offence has been committed, then the correct remedy for the petitioner is to approach the competent court by filing an application under Section 156(3) CrPC. The Apex Court in Sakiri Basu vs. State of UP, (2008) 2 SCC 409 and Priyanka Srivastava vs. State of UP, (2015) 6 SCC 287 had directed that the High Court must not entertain writ petitions seeking direction to the Police for



registration of an FIR and the complainants must be delegated to approach the competent court by filing the application under Section 156(3) CrPC.

28. Since the records show that the members of the petitioner/society are in unlawful occupation, the relief for compensation on the ground of DDA damaging the crop is not maintainable. This writ petition is nothing but an abuse of the process of law and another attempt by the members of the petitioner Society to cling on to the land while they have already been held to be unauthorized occupants and encroachers. The members of the petitioner Society have, therefore, violated the undertaking given to the Apex Court. Since the petitioner claims that their members are farmers, this Court is not imposing costs on the petitioner Society.”

40. In another decision by the Coordinate Bench of this Court in **Randheer v. Commissioner of Police**²⁸, arising out of W.P.(C) 11871/2022 dated 15.03.2023, the petitioners, who were the occupants of jhuggis at T-Huts, Moolchand Basit-1, Rajghat, New Delhi-110002, sought a stay on the demolition of their jhuggis as well as their rehabilitation. The Court, *inter alia*, affirmed that only occupants of the notified clusters, as per the DUSIB records, would be entitled for rehabilitation. In **Court on its own motion v. Union of India**²⁹, the Court took cognizance of perils of water logging, flooding, and the consequent collapse of civil services in Delhi, particularly due to the fury of River Yamuna. Taking note of various plans proposed by different government agencies, the Court issued the following directions concerning the restoration and rejuvenation of the River Yamuna floodplains:

“E) Restoration and rejuvenation of Yamuna River Flood Plains

²⁸ LPA 196/2023 dated 11.10.2023

²⁹ Wpc 7594/2018 dated 08.04.2024



20. DDA in coordination with all concerned agencies is hereby directed to ensure removal of encroachments from Yamuna River Flood Plains. Delhi Police shall provide necessary force to the DDA as and when requested, to maintain law and order during such encroachment removal drives to remove encroachment from Yamuna Flood Plains.

21. Further, DDA shall submit an action taken report on development of ten bio-diversity parks / wetland areas in Yamuna River Flood Plain including an action plan with timelines for completion of pending projects. Cities and Towns around India, which have been developed along rivers, are doing horticulture and green development of river fronts for their citizens as symbols of urban pride.

22. DDA shall explore green horticultural development of river fronts and recreational zones with public amenities to increase public participation and awareness about rejuvenation of River Yamuna in accordance with extant guidelines.

23. It is necessary to do green development of the banks of the Yamuna as wetlands and public spaces, parks for open green spaces, access to civic amenities, zones of entertainment or playgrounds for the children. This will lead to buy-in by the common citizen, a sense of ownership and consequent pressures on the authorities to ensure maintenance. All this will go hand in hand with ecological restoration, maintenance, and protection of the flood plains.

24. A large number of religious devotees pray at different locations, discharging solid waste in the river water, adding to an already serious problem. Recognising this need of the residents of the State, DDA should construct select number of ghats or platforms on stilts along the riverbank, for such purposes to ensure that the devotees get space and the authorities are able to deal with the challenge of waste scientifically.

25. With respect to forty-four (44) number of court cases pertaining to encroachment in Yamuna River Flood Plain (a list of which is handed over by the Chief Secretary, GNCTD, in Court) pending before various Benches of this Court, let the Registry club all such cases and list all Division Bench cases before a Division Bench presided over by Hon'ble Ms. Justice Rekha Palli and all Single Bench cases before the Bench of Hon'ble Mr. Justice Dharmesh Sharma for early disposal in accordance with law.

F) Rejuvenation of River Yamuna

26. DDA, being the designated owner of the Yamuna Flood plains, is also hereby directed to ensure removal of construction waste / debris from the Yamuna river accumulated during constructions of bridges, rail lines, metro lines, regional rail network, etc. and for



this purpose the DDA may call upon the concerned agencies like DMRC, PWD, NCRTC, MCD, etc. to remove such debris by 30th June, 2024 failing which DDA shall take up works for cleaning of such construction waste / debris at the cost of defaulters.

27. DDA shall also declare nodal officers for each stretch of the flood plain who would be responsible for sustained upkeep of their jurisdictional area free from encroachment and free of construction & demolition ("C & D") waste.

28. MCD shall also develop a large facility of requisite capacity to convert 100% C & D waste generated in this city into aggregate (Rodi)/ tiles/paver blocks etc. for use in public infrastructure.

29. Bio-gas plants shall also be installed near all the nine authorised dairies in Delhi for creation of dry manure and biogas fuel / Compressed Biogas (CBG) production, for which an action plan along with timelines shall be prepared within a period of four weeks of passing of this order.

30. Further, during the recent flooding of river Yamuna, it has been observed that the 22 km stretch of Yamuna flowing through Delhi is no longer navigable. The riverbed is so high and the river so shallow that it can no longer support any aquatic life. Because of the high riverbed, every monsoon sees an overflow of the river water, many a times causing floods. We have been informed that the river has been consistently becoming shallow and hence lacks the capacity to carry excess water during the monsoon or maintain life during the rest of the year. Hence, we see the Yamuna becoming a veritable putrid drain, especially during the summer months.

31. DDA shall take up the matter with concerned authorities, such as Irrigation and Flood Control, National Ganga Mission etc., for carrying out controlled and scientific dredging for removal of silt both upstream and downstream and for creation of series of small ponds adjoining the river to improve the carrying capacity of the river Yamuna. This becomes more so important after the floods seen during the year 2023. This exercise shall be done on a war footing and be completed by 30th June, 2025. DDA, being an agency under GoI and the other concerned departments being under the jurisdiction of GoI as well as GNCTD, a mechanism for seamless coordination should be put in place within a period of four weeks of passing of this order.

32. Further, GNCTD is hereby directed to submit an action taken report to this Court to increase the existing capacity of STPs from 667 MGD to 964.5 MGD within a period of four weeks of passing of this order and to ensure that treated water from these STPs shall meet the prescribed norms viz., pH (5.5-9.0), BOD (10 mg/l), TSS (20 mg/l), COD (50 mg/l), N-Total (10 mg/l), Phosphorus Total (1



mg/l). NH₄-N (5 mg/l) and Fecal Coliform (<230 MPN/100ml), the existing capacity of STPs shall be increased from 667 MGD to 964.5 MGD by 31st March, 2025. It is not out of context to mention that such parameters were recommended by the Expert Committee and accepted by the National Green Tribunal (“NGT”) vide its judgment dated 30th April, 2019 in OA No. 1069/2018 titled ‘*Nitin Shankar Deshpande vs. Union of India*’; and such decision of NGT was upheld by the Hon’ble Supreme Court vide its order dated 17th May, 2019 in Civil Appeal No. 5036 of 2019 titled ‘*Municipal Corporation of Greater Mumbai vs. Nitin Shankar Deshpande*’. This is required so that no untreated sewage is dumped into river Yamuna beyond 31st March, 2025 at any cost.

33. GNCTD is directed to undertake requisite work for capturing sewage in the unauthorised colonies and Jhuggi Jhopri (JJ) clusters as per its existing policy so as to ensure that 100% sewage can be captured and untreated sewage is not dumped into river Yamuna, but rather diverted to in situ waste treatment plants and only treated water is released into Yamuna.”

41. The issue whether persons staying on the River Yamuna floodplains have any right under the Rehabilitation Policy was considered by this Court in the case of **Bela Estate Mazdor Basti Samiti v. Delhi Urban Shelter Improvement Board**³⁰, wherein it was held as under:

“26. The moot question to be addressed in the present writ petition is whether the Petitioners, who are admittedly jhuggi dwellers staying at the Yamuna Flood Plains, have any right under law for the rehabilitation.

27. At this juncture, it would be apt to refer to the decision of this Court in Shobha Dikshit case (supra), where this Court dealt with a writ petition praying for similar reliefs. In that case, this Court also dealt with the judgments relied upon by the Petitioner in present case i.e. Sudama Singh (supra) and Ajay Maken (supra), and it was held as follows:

“46. Further, it would be apposite to refer to the decision of a Coordinate Bench of this Court in Dinesh Singh & Ors. Vs Delhi Development Authority & Ors., W.P. (C) 12384/2022, wherein the Court after considering the various judgments of this Court observed as follows:

³⁰ MANU/DE/2084/2023



“11. From the decisions aforementioned, it is manifest that a cluster in order to be eligible for extension of benefits under the Rehabilitation Policy must necessarily meet the qualifying criteria as specified in Section 2(g) of the Act. Consequently, it must be a notified cluster comprising of not less than 50 jhuggis. The aforesaid cluster must additionally form part of the 675 clusters which had been identified by the DUSIB. The recitals and recordal of facts of the present case leads the Court to the inescapable conclusion that the cluster in question would not meet those requirements. In view of the aforesaid, the reliefs as claimed cannot possibly be granted. 12. The Court deems it apposite to observe further that neither Sudama Singh nor Ajay Maken mandate a rehabilitation measure being adopted and coverage under the Rehabilitation Policy being extended without the cluster otherwise conforming to the requirements as placed under the Act. The Court also bears in mind that the undisputed fact that the Rehabilitation Policy which was placed in the shape of a protocol in Ajay Maken was neither interfered with nor any adverse observation in respect thereof entered.”

47. A Coordinate Bench of this Court had similar facts before it in the case of Shakarpur Slum Union Vs DDA & Ors., W.P. (C) 6779/ 2021. The Coordinate Bench distinguished the facts presented before it from the facts before the Court in Ajay Maken (supra) and Sudama Singh (supra). The relevant portion of the said judgment is extracted hereinbelow:

“33. The reliance of the Petitioner-Union on the judgment of this Court in Ajay Maken (supra) also does not hold any water. The judgment of Ajay Maken (supra) holds to the extent that once a cluster has been identified under the DUSIB Policy, then the persons living in that JJ cluster cannot be treated as illegal encroachers and they cannot be removed from that location without being rehabilitated in accordance with the DUSIB Policy. As stated earlier, when the judgment of Sudama Singh (supra) was pronounced, there was no policy in place and this Court in Ajay Maken's case was dealing with the cluster which had been identified by the DUSIB and, therefore, the members of that cluster were entitled to the benefit of the DUSIB Policy. The learned counsel for the



Petitioner has contended that a reading of paragraph 171 of the judgment of this Court in Ajay Maken (supra) indicates that the Division Bench of this Court has held that the DUSIB Policy, 2015, will apply to all the jhuggi Clusters alike and that, therefore, regardless of the fact that the present Cluster is included in the notified Cluster or not, the protection given by this Court in the judgment of Sudama Singh (supra) should be extended to the Petitioners as well. This argument does not hold water. If this submission is accepted, the entire DUSIB Policy, 2015, would be rendered infructuous, and there would have been no necessity for the DUSIB to bring out the policy restricting the right of rehabilitation only to those Clusters which were existing on 01.01.2006 and those jhuggis which were inside those Clusters as on 01.01.2015. It is the opinion of this Court that the judgment of Ajay Maken (supra) has to be read in that light. The said judgment has not rendered the DUSIB Policy, 2015, as violative of Article 14 of the Constitution of India. The purpose of the judgments passed by this Court in Sudama Singh (supra) and Ajay Maken (supra) was not to provide rehabilitation of the dwellers in the JJ Cluster even if they have encroached on government land. Encroachment on government land cannot be said to be a fundamental right of any person and a person encroaching upon government land cannot claim that he is entitled to rehabilitation as a matter of right even in the absence of any policy bestowing the benefit of rehabilitation and relocation on the said person.”

48. A Division Bench of this Court was also presented with similar facts in a LPA and while disposing of the same, the Ld. Division Bench of this Court observed in its Order dated 19.04.2022, passed in LPA 271/2022, titled as „Vaishali (Minor) through Next Friend & Ors. Vs Union of India & Ors.“, as follows:

“11. A reading of the above provision would clearly show that DUSIB has to declare a group of jhuggis as “Jhuggi jhopri basti” by way of notification. One of the conditions to be fulfilled by such a group of jhuggis is that it must be inhabited, at least by fifty households, as existing on 01.01.2006. Section 9 of the Act empowers the DUSIB to make a survey of any jhuggi basti. Section 10 of the Act provides for preparation of a scheme for removal of any JJ basti and for resettlement of the residents thereof. Section 12 of the Act provides for the re-development of the JJ basti.



The above provisions are applicable only with respect to “Jhuggi Jhopri basti”, that is, inter-alia a group of fifty households as existing 01.01.2006 and duly declared by DUSIB as such by way of a Notification.

12. As noted by the learned Single Judge, the appellants have been unable to produce any such notification under Section 2(g) of the Act. Even in appeal, no such Notification has been produced by the appellants. The appellants are, therefore, not entitled to any protection under the Act,

13. As far as the Policy is concerned, the Policy stipulates “eligibility for rehabilitation or relocation” only for those JJ basti, which have come up before 01.01.2006. Therefore, for seeking benefit of the said Policy, it was incumbent on the appellants to show that their JJ basti was in existence since before 01.01.2006. Though the learned senior counsel for the appellants sought to place reliance on a list of families allegedly residing in the said cluster of jhuggis, and submits that many therein have been residing much prior to the cut-off date of 01.01.2006, we find that the addresses mentioned in the said list vary between different blocks of Sarojini Nagar. They, therefore, cannot, at least prima facie, be stated to be forming part of one JJ basti, entitling them to the benefit of the Policy.

15. As far as the reliance of the appellants on the Draft Protocol is concerned, the same again applies only to a JJ basti in existence prior to 01.01.2006, and the manner in which such determination is to be made. In the present case, the categorical stand of the respondent nos. 1 and 2 is that such a determination was made in the case of the appellants, and the cluster of jhuggis at Sarojini Nagar was not found in existence as on 01.01.2006, and therefore, not notified under the Act. In case the appellants are to dispute the above, it would be a disputed question of fact, which in any case, cannot be determined in a writ jurisdiction. Therefore, the Draft Protocol also cannot come to the aid of the appellants.

16. As far as the reliance of the appellants on the judgments of this Court in Sudama Singh (supra) and Ajay Maken (supra) is concerned, we are again unable to accept the same. In the referred judgments, this Court was not dealing with the position where the respondents were disputing the existence of the JJ cluster as on 01.01.2006. Therefore, the said judgments



would have no application to the facts of the present case.

49. Further, it would be apposite here to refer to a decision of a Single Bench of this Court in Kasturba Nagar Residents Welfare Association Vs Government of NCT of Delhi & Ors., W.P.(C) 11945/2022, passed on 13.10.2022, wherein it observed as follows:

“6. Ultimately it was incumbent upon the petitioners to have established that they were part of an identified cluster and formed part of the list of 675+82 bastis which had been duly identified by DUSIB for the purposes of extension of benefits under the 2015 Policy. The Court further notes that the decisions noticed in Dinesh Singh have consistently held that the question whether the cluster forms part of those which were identified by DUSIB is determinative of whether the residents thereof are entitled to extension of benefits under the 2015 Policy. That was a detailed and comprehensive exercise which was undertaken by DUSIB for the purposes of identifying those clusters to which the relocation and rehabilitation policy would apply.

7. The Court also notes that the 2015 Policy incorporated an injunct against recognition and extension of the benefits envisaged therein to clusters which may spring into existence thereafter.

Viewed in that light, there appears to be no scope in law to undertake a fresh exercise to determine whether a cluster was in existence prior to the cut-off date prescribed under the 2015 Policy. That issue clearly attained finality once the list of eligible clusters had been duly identified by DUSIB. The prayers for the Court to embark down that path would not only lead to it being compelled to delve into disputed questions of fact and a de novo assessment of evidence, it would also unsettle a position which was statutorily conferred finality.

8. The Court also bears in mind that the petitioners are not shown to have assailed their exclusion from the list of identified clusters at any point of time prior to the filing of the instant writ petition. The record would indicate and establish that the identity of clusters which came to be included for the purposes of extension of benefits under the 2015 Policy, was a matter of common public knowledge. It is not the case



of the petitioners that they were oblivious to their exclusion from the list of identified JJ bastis. If the Court were to countenance or entertain a challenge as suggested in the present petition, it would become an unending exercise and scuttle the very objective of the Act and the 2015 Policy.”

50. In view of the authorities discussed hereinabove, the law is well settled that after coming into force of the DUSIB policy, 2015, the residents of jhuggis whose jhuggis were not notified by DUSIB, are not entitled to any rehabilitation or relocation. Therefore, in light of the decisions mentioned hereinabove, this Court is not willing to injunct to the Respondents to provide rehabilitation to the Petitioner or other residents of the said Jhuggis.”

(Emphasis supplied)

28. It is apposite to also refer to the decision of Division Bench of this Court in Kasturba Nagar Residents Welfare Association case (supra) wherein it was held as follows:

“14. The purpose of restricting the benefit of 2015 Policy is clear from the policy itself which forbade coming up of jhuggis after 01.01.2015. As rightly pointed out by the learned Single Judge, no material has been provided by the Appellant/Association that the cluster, in which its members are residing, has been identified by the DUSIB. Rather, the stand of DUSIB is categorical that the area where the members of the Appellant Association reside does not form a part of the list identified by the DUSIB for the purpose of rehabilitation.

15. The contention that the members of the Appellant/Association have been residing in the basti from 1980 has been denied by the Respondents. Filing documents to show that they have proof of residence is not conclusive proof of continuous stay in the area because this Court can take judicial notice of the fact that persons who stay in such bastis migrate from the place when they get a better accommodation or a new job but they continue to have papers showing these addresses. This issue can only be decided in proper suit where it has to be established by leading evidence that they continue to reside in these addresses.

42. In summary, in view of the foregoing discussion, this Court has no hesitation in holding that the petitioner union has no *locus standi* to institute the present petition and to espouse the cause of an unknown



numbers of individuals without even specifying the exact area, size, or location of their plots. Such reliefs cannot be sought in writ jurisdiction in a blanket manner. The petitioner union has failed to demonstrate any legal right, title, or interest of its member in the subject site. At the cost of repetition, the subject site is not even capable of being inhabited. Moreover, the so-called members of the petitioner union, being rank tress-passers or unauthorized occupants, are not entitled to the benefit of any Rehabilitation Policy framed by the DUSIB. There arises no question of conducting any fresh survey, let alone awarding compensation to the so-called members of the petitioner union, who repeatedly return to the subject site and encroach upon the land after each eviction. The plea that the respondents have not followed due process of law in carrying out demolition action cannot be sustained in law. The floodplain area is a designated prohibited activity zone and serves as a vital element of the river ecosystem. Encroachment upon this area disrupts the natural flow of water, resulting in the diversion of watercourses and contributing to flooding in adjacent regions. In fact, numerous experts assert that recurring floods in Delhi are largely man-made, primarily driven by unlawful encroachment on drains and riverbeds, which obstruct the natural flow of water into and within the River Yamuna, exacerbating the severity of the floods.

43. Further, the unlawful construction in the area poses a significant threat to the ecologically sensitive River Yamuna floodplains. Since the subject site was acquired by the DDA for the channelization and protection of the River Yamuna, the removal of the petitioner union



from the subject site serves the greater public interest. In addition, as per the DUSIB Act, 2010, and the 2015 Policy, not every slum dweller or JJ Basti is automatically entitled to alternate housing. Clause 2(a)(i) of the 2015 Policy (Part A) clearly stipulates that only those JJ Bastis established before January 1, 2006, are entitled to protection from removal without provision for alternate housing. The JJ Basti in question is not part of the 675 notified JJ Bastis listed by DUSIB, further establishing that the residents of the petitioner union are occupying the area illegally.

44. Accordingly, the present writ petition is hereby dismissed with costs of Rs. 10,000/- imposed upon the petitioner union.

45. The pending applications also stand disposed of.

DHARMESH SHARMA, J.

MARCH 03, 2025

Sadiq